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REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

ALLYSON GONZALEZ,

Plaintiff and Appellant,

v.

MEDICAL EXECUTIVE
COMMITTEE OF THE MEDICAL
STAFF OF PROVIDENCE SAINT
JOHN'S MEDICAL CENTER et al.,

Defendants and Respondents.

B266767

(Los Angeles County
Super. Ct. No. BS157066)

APPEAL from an order of the Superior Court of Los
Angeles County, Joanne B. O'Donnell, Judge. Dismissed.
John D. Harwell for Plaintiff and Appellant.

Pepper Hamilton, Mark A. Kadzielski and Matthew H. Ladner, for Defendants and Respondents.

Allyson Gonzalez (Gonzalez) appeals from an order denying her ex parte application for a temporary stay order pursuant to Code of Civil Procedure section 1094.5.¹ We lack jurisdiction, and we dismiss.

In a letter dated July 8, 2015, Medical Executive Committee of the Medical Staff of Providence Saint John's Medical Center (Providence) notified Gonzalez that her medical staff membership and clinical privileges at Providence were terminated immediately. Gonzalez had applied for reappointment in April 2015, notifying Providence that a peer review proceeding was underway at Santa Monica-UCLA Medical Center (SM-UCLA). In June, Gonzalez notified Providence that the Executive Medical Board of SM-UCLA had completed a formal investigation of the quality of care provided by Gonzalez, and voted to recommend termination of her medical staff membership and clinical privileges; a judicial review committee, following hearings, determined the decision was reasonable and warranted; and an appeal committee unanimously affirmed the decision to terminate Gonzalez's staff membership and clinical privileges. After reviewing the record, Providence automatically terminated Gonzalez's staff membership and

¹ All further statutory references are to the Code of Civil Procedure.

clinical privileges under article IX, section 3.1 of its Medical Staff Bylaws. That section provides that Providence's Medical Executive Committee "may impose any adverse action that has been taken by another peer review body" after a hearing, if the committee determines that the other peer review body took action based on standards essentially the same as Providence's, the practitioner waived or exhausted her hearing and appeal rights regarding that action, and the other peer review body's action became final in the last 36 months. Finding that SM-UCLA's action satisfied the bylaw provision, Providence automatically terminated Gonzalez's medical staff membership and clinical privileges, and notified Gonzalez that Providence would not process her application for reappointment.

On August 10, 2015, Gonzalez filed a petition for administrative mandamus against Providence in superior court pursuant to sections 1094.5 and 1084, challenging the automatic termination. On August 18, 2015, Gonzalez filed an ex parte application for a temporary stay order under section 1094.5, subdivision (g), and Providence filed an opposition.

After hearing on August 18, 2015, the trial court adopted its tentative decision to deny the stay. In a minute order the court explained that it considered the stay request in light of section 1094.5, and based on a declaration from the president of Providence's Medical Executive Committee, determined that the stay would be against the public interest, and Gonzalez was unlikely to prevail ultimately on

the merits. Gonzalez filed a notice of appeal on September 8, 2015.

Section 1094.5, subdivision (g), provides that the court in which proceedings are instituted may stay the operation of the order appealed from pending judgment or until the filing of a notice of appeal from the judgment, but “no such stay shall be imposed or continued if the court is satisfied that it is against the public interest.”

The order denying the temporary stay was not appealable. “[A]n appeal lies, with certain exceptions not herein material, only from a final judgment—that is, a judgment terminating the proceeding below and finally determining the rights of the parties therein. [Citations.] The order denying petitioner’s proposed temporary stay orders was obviously not a final judgment and therefore was not an appealable order.” (*Gibson v. Savings and Loan Commissioner* (1970) 6 Cal.App.3d 269, 271–272.) The petitioner had challenged a merger order by the savings and loan commissioner by way of administrative mandamus under section 1094.5, and the trial court denied the request for a temporary stay of the order. (*Id.* at p. 271.) Gonzalez’s actions are identical: she challenged Providence’s automatic termination by way of administrative mandamus under section 1094.5, and subsequently filed for a stay, which the trial court denied. The order denying the stay obviously is not a final judgment and is not appealable, and we therefore dismiss the appeal.

DISPOSITION

The appeal is dismissed. Costs on appeal are awarded to Medical Executive Committee of the Medical Staff of Providence Saint John's Medical Center.

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JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.